

**CH2M HILL HANFORD GROUP, INC.**  
**MATERIAL GENERAL PROVISIONS**  
**Cost Reimbursement Contract Type**

**January 22, 2007**  
**Rev. 6**

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**SUBCONTRACT FLOW-DOWN REQUIREMENTS**

SUBCONTRACTOR shall bind all lower-tier Subcontractors, regardless of tier level, to the Provisions of this Subcontract or Purchase Order where indicated with an asterisk (\*) as a required flow-down or as stated in the provision's text.

**DEFINITIONS**

Whenever used in this document, the following definitions shall apply unless the content indicates otherwise.

**Authorized Procurement Representative** – The term “authorized procurement representative” shall be a CH2M HILL person with authority to enter into and administer Subcontracts and make related determinations and findings. These individuals are identified with the associated authority in the body of the Subcontract.

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**Buyer's Technical Representative (BTR)** – The term “Buyer's Technical Representative (BTR)” means the individual responsible for providing technical direction to the SUBCONTRACTOR. The BTR does not possess any explicit, apparent or implied authority to modify Subcontract terms and conditions.

**CH2M HILL** – The term “CH2M HILL” means CH2M HILL Hanford Group, Inc.

**Government** – The term “Government” shall mean the United States of America and includes the U.S. Department of Energy (DOE) Office of River Protection (ORP), or any duly authorized representative thereof, including the CH2M HILL Administrative Contracting Officer (ACO).

**Lower-Tier Subcontractors** - The term “lower-tier Subcontractors” refers to companies or individuals with whom the SUBCONTRACTOR has purchase orders and rental agreements for materials or equipment, and other services not performed directly by the SUBCONTRACTOR under this Subcontract.

**SUBCONTRACTOR** – The term SUBCONTRACTOR refers to the company, person or organization, including all lower-tier Subcontractors, performing Work under this Subcontract.

**Subcontract** – The term Subcontract shall mean this Subcontract or Purchase Order between CH2M HILL Hanford Group, Inc. (CH2M HILL) and SUBCONTRACTOR including its terms, conditions, clauses, provisions, written direction and instructions, releases, and documents.

**Work** – The term “Work” includes all material, labor, tools, and all appliances, machinery, and transportation, necessary to perform and complete the Subcontract's requirements, and such additional items not specifically indicated or described that can be reasonably inferred as required to complete the Subcontract.

**ARTICLE 1.0 SUBCONTRACT TYPE**

**Cost Reimbursement Contract Type:** The contract type is identified and provided on the face of this Subcontract. The provisions that pertain to the contract type identified will be the basis for performance administration. CH2M HILL will make payments to the SUBCONTRACTOR in amounts determined to be allowable by CH2M HILL in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 in effect on the date of this Subcontract and the terms of this Subcontract.

**Cost Plus Fixed Fee**

- A. **Fixed Fee Value:** CH2M HILL shall pay the SUBCONTRACTOR for performing this Subcontract the fixed fee specified in the Compensation Schedule in accordance with Federal Acquisition Regulation (FAR) 52.216-8 (March 1997).
- B. **Fixed Fee Payment:** Payment of the fixed fee shall be made as specified in the Compensation Schedule; provided, that after payment of 85 percent of the fixed fee, CH2M HILL may withhold further payment of fee until a reserve is set aside in an amount that CH2M HILL considers necessary to protect CH2M HILL's interest. This reserve shall not exceed 15 percent of the total fixed fee, or \$100,000, whichever is less. CH2M HILL shall release 75 percent of all fee withholds under this Subcontract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this Subcontract, provided the SUBCONTRACTOR has satisfied all other Subcontract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final on prior years' settlements. CH2M HILL may release up to 90 percent of the fee withholds under this Subcontract based on the SUBCONTRACTOR's past performance related to the submission and settlement of final indirect cost rate proposals.

**Cost Plus Incentive Fee**

- A. **Incentive Fee Value:** CH2M HILL shall pay the SUBCONTRACTOR for performing this Subcontract a fee determined as provided in this Subcontract.
- B. **Target Cost and Target Fee.** The target cost and target fee specified in the Compensation Schedule are subject to adjustment if the Subcontract is modified based on equitable adjustment.
  - 1. **Target Cost**, as used in this Subcontract, means the estimated cost of this Subcontract as initially negotiated, adjusted in accordance with paragraph (D) below.
  - 2. **Target Fee**, as used in this Subcontract, means the fee initially negotiated on the assumption that this Subcontract would be performed for a cost equal to the estimated cost initially negotiated, adjusted in accordance with paragraph (D) of this clause.

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- C. Withholding of Fee Payment: Normally, CH2M HILL shall pay the fee to the SUBCONTRACTOR as specified in the Compensation Schedule. However, when CH2M HILL considers that performance or cost indicates that the SUBCONTRACTOR will not achieve target, CH2M HILL shall pay on the basis of an appropriate lesser fee. When the SUBCONTRACTOR demonstrates that performance or cost clearly indicates that the SUBCONTRACTOR will earn a fee significantly above the target fee, CH2M HILL may, at the sole discretion of CH2M HILL, pay on the basis of an appropriate higher fee. After payment of 85 percent of the applicable fee, CH2M HILL may withhold further payment of fee until a reserve is set aside in an amount that CH2M HILL considers necessary to protect CH2M HILL's interest. This reserve shall not exceed 15 percent of the applicable fee, or \$100,000, whichever is less. CH2M HILL shall release 75 percent of all fee withholds under this Subcontract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this Subcontract, provided the SUBCONTRACTOR has satisfied all other Subcontract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final invoices on prior years' settlements. CH2M HILL may release up to 90 percent of the fee withholds under this Subcontract based on the SUBCONTRACTOR's past performance related to the submission and settlement of final indirect cost rate proposals.
- D. Equitable Adjustments: When the scope of work under this Subcontract is increased or decreased by an amendment to this Subcontract or when any equitable adjustment in the target cost is authorized under any other clause, equitable adjustments in the target cost, target fee, minimum fee, and maximum fee, as appropriate, shall be stated in an amendment to this Subcontract.
- E. Fee Payable:
1. The fee payable under this Subcontract shall be in accordance with the Compensation Schedule.
  2. The fee shall be subject to adjustment, to the extent provided in paragraph (D) above, and within the minimum and maximum fee limitations in subparagraph (1) of this clause, when the total allowable cost is increased or decreased as a consequence of (i) payments made under assignments or (ii) claims excepted from the release as required.
  3. If this Subcontract is terminated in its entirety, the portion of the target fee payable shall not be subject to an increase or decrease as provided in this paragraph. The termination shall be accomplished in accordance with other applicable clauses of this Subcontract.
  4. For the purpose of fee adjustment, "total allowable cost" shall not include allowable costs arising out of:
    - a. Any of the causes covered by excusable delays to the extent that they are beyond the control and without the fault or negligence of the SUBCONTRACTOR or any lower-tier Subcontractor;
    - b. The taking effect, after negotiating the target cost, of a statute, court decision, written ruling, or regulation that results in the SUBCONTRACTOR's being required to pay or bear the burden of any tax or duty or rate increase in a tax or duty;
    - c. Any direct cost attributed to the SUBCONTRACTOR's involvement in litigation as required by CH2M HILL pursuant to a clause of this Subcontract, including furnishing evidence and information requested pursuant to the Notice and Assistance Regarding Patent and Copyright Infringement provision;
    - d. The purchase and maintenance of additional insurance not in the target cost and required by CH2M HILL, or claims for reimbursement for liabilities to third persons pursuant to the Insurance Liability to Third Persons clause;
    - e. Any claim, loss, or damage resulting from a risk for which the SUBCONTRACTOR has been relieved of liability by the Government Property clause; or
    - f. Any claim, loss, or damage resulting from a risk defined in the Subcontract as unusually hazardous or as a nuclear risk and against which the Government has expressly agreed to indemnify the SUBCONTRACTOR.

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5. All other allowable costs are included in "total allowable cost" for fee adjustment.

- F. Subcontract Modification: The total allowable cost and the adjusted fee determined as provided in this provision shall be evidenced by an amendment to this Subcontract signed by the SUBCONTRACTOR and CH2M HILL.
- G. Inconsistencies: In the event of any language inconsistencies between this clause and provisioning documents or CH2M HILL options under this Subcontract, compensation for spare parts or other supplies and services ordered under such documents shall be determined in accordance with this provision.

**Cost Reimbursement – No Fee**

- A. Fee Payable: CH2M HILL shall not pay the SUBCONTRACTOR a fee for performing this Subcontract.
- B. Withholding of Cost: After payment of 80 percent of the total estimated cost shown in the Compensation Schedule, CH2M HILL may withhold further payment of allowable cost until a reserve is set aside in an amount that CH2M HILL considers necessary to protect CH2M HILL's interest. This reserve shall not exceed one percent of the total estimated cost shown in the Compensation Schedule, or \$100,000, whichever is less.

In a Subcontract for research and development with an educational institution or a nonprofit organization, for which CH2M HILL has determined that withholding of a portion of allowable costs is not required, paragraph (B) of the basic clause is not applicable.

**ARTICLE 2.0 ORDER OF PRECEDENCE**

In the event of a discrepancy among any of the Subcontract terms, conditions, clauses, provisions, written direction and instructions, and documents, the following order of precedence shall govern resolution: (i) CH2M HILL's written Subcontract/Purchase Order, amendments, direction, and instructions; (ii) Special Provisions (iii) Material General Provisions, (iv) Statement of Work, (v) Technical Instructions, including drawings, exhibits and attachments, and applicable standards; and (iv) other documents identified as being part of the Subcontract.

Nothing recited above shall be construed as superseding or deleting any applicable statute, rule, ordinance, or regulation (collectively, the 'Laws'). In the event of a Subcontract requirement is determined by a court of competent jurisdiction to conflict with Laws, the Subcontract shall not be invalidated and the Subcontract shall be construed and interpreted with regard to the intent of the contracting parties.

**ARTICLE 3.0 TERMS OF PAYMENT**

**3.1 General Invoice Requirements**

- A. Invoice Submission Requirements: Original invoices and supporting documentation shall be submitted no more than once a month per calendar month to CH2M HILL's Accounts Payable organization at the address below.

CH2M HILL HANFORD GROUP, INC.

Accounts Payable Mail Stop: H6-09

P.O. Box 1500

Richland, WA 99352

Email electronic invoices to: [ch2m\\_ap\\_invoices@rl.gov](mailto:ch2m_ap_invoices@rl.gov)

- B. Invoice Payment Terms: SUBCONTRACTOR shall prepare all invoices in a form satisfactory to and approved by CH2M HILL. Except to the extent expressly stated elsewhere in this Subcontract, the invoice is payable thirty (30) calendar days after receipt by CH2M HILL of a properly marked and submitted invoice. Discounts are expected for earlier payments and shall be specifically incorporated in the Subcontract. All unit pricing and payments made shall be in United States dollars only, in the forms of cash, check or electronic transfer as may be agreed upon. Remittance will be made only to the remittance address on file for the SUBCONTRACTOR. Invoices from third parties or with different remittance instructions or addresses will not be processed. Invoices may be submitted electronically, if in an acceptable format. All invoice requirements still apply to electronic invoices.
- C. Invoice Certification: Submittal of an invoice constitutes SUBCONTRACTOR's certification that materials, Work and/or services have been delivered as specified on the invoice in accordance with the Subcontract.

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- D. Separate Invoice Requirements: Each Subcontract or Subcontract Release shall be invoiced separately.
- E. Minimum Invoice Requirements: The invoice shall identify the following information:
- SUBCONTRACTOR's name, invoice number, and Subcontract number, and Release number.
  - SUBCONTRACTOR's name and telephone number of a representative available to respond to invoice questions.
  - The total amount due for the billing period (this amount shall be separate from cumulative amounts or subtotals included on the invoice).
  - A cost summary identifying all cost elements being invoiced with all indirect cost (rate) allocations clearly identified.
  - A synopsis of services performed during the billing period.
  - A corresponding description of each item billed and the associated amount.
- F. Provisional Indirect Billing Rates: Until final annual indirect cost rates are established for any period, CH2M HILL shall reimburse the SUBCONTRACTOR at billing rates established by CH2M HILL or the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates:
- Shall be the anticipated final rates; and
  - May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.
- G. Reimbursement of Costs: Reimbursable costs will be determined allowable by CH2M HILL in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 in effect on the date of this Subcontract and the terms of this Subcontract.
1. For the purpose of reimbursing allowable costs (except as provided in subparagraph (2) below, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only:
    - a. Those recorded costs that, at the time of the request for reimbursement, the SUBCONTRACTOR has paid by cash, check, or other form of actual payment for items or services purchased directly for the Subcontract;
    - b. When the SUBCONTRACTOR is not delinquent in paying costs of Subcontract performance in the ordinary course of business, costs incurred, but not necessarily paid, for:
      - i. Materials issued from the SUBCONTRACTOR's inventory and placed in the production process for use on the Subcontract;
      - ii. Direct labor;
      - iii. Direct travel;
      - iv. Other direct in-house costs; and
      - v. Properly allocable and allowable indirect costs, as shown in the records maintained by the SUBCONTRACTOR for purposes of obtaining reimbursement under Government contracts; and
    - c. The amount of progress payments that have been paid to the SUBCONTRACTOR's lower-tier subcontractors under similar cost standards.
  2. SUBCONTRACTOR contributions to any pension or other postretirement benefit, profit-sharing or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; Provided, that the SUBCONTRACTOR pays the contribution to the fund within 30 days after the close of the period covered. Payments made 30 days or more after the close of a period shall not be included until the SUBCONTRACTOR actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the SUBCONTRACTOR actually makes the payment.

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3. Notwithstanding the audit and adjustment of invoices or vouchers allowable indirect costs under this Subcontract shall be obtained by applying indirect cost rates established in accordance with the section titled *Billing Rates*.
  4. Any statements in specifications or other documents incorporated in this Subcontract by reference designating performance of services or furnishing of materials at the SUBCONTRACTOR's expense or at no cost to CH2M HILL or the Government shall be disregarded for purposes of cost-reimbursement under this clause.
- H. Rejection of Invoices: Any invoice submitted, which fails to comply with the terms of this Subcontract, including the requirements of form and documentation, may be returned to SUBCONTRACTOR. Any costs associated with the resubmission of a proper invoice shall be to SUBCONTRACTOR's account.
- I. Withholding Invoice Payments: CH2M HILL may, at its sole discretion, withhold payment due for, but not limited to, the following reasons:
- Substandard Work or delays in the Work not corrected promptly.
  - Evidence that a claim has been or will be filed against SUBCONTRACTOR.
  - Evidence that lower-tier Subcontractors or suppliers have not been properly paid.
  - Failure to provide accrual reports by the 15th of each month as specified in the Subcontract provisions

### **3.2 Small Business Concerns**

Upon receiving written approval from CH2M HILL, a small business concern may be paid more frequently than the cited payment terms and may invoice and be paid for recorded costs for items or services purchased directly for the Subcontract, even though the concern has not yet paid for those items or services.

### **3.3 Final Indirect Cost Rates**

Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulations (FAR) in effect for the period covered by the indirect cost rate proposal.

The SUBCONTRACTOR shall, within 180 days after the expiration of each of its fiscal years, or by a later date approved by CH2M HILL, submit to the cognizant authorized procurement representative responsible for negotiating its final indirect cost rates and, if required by agency procedures, to the cognizant audit activity proposed final indirect cost rates for that period and supporting cost data specifying the Subcontract and/or Subcontract to which the rates apply. The proposed rates shall be based on the SUBCONTRACTOR's actual cost experience for that period. The appropriate authorized procurement representative or Government representative and SUBCONTRACTOR shall establish the final indirect cost rates as promptly as practicable after receipt of the SUBCONTRACTOR's proposal.

The SUBCONTRACTOR and the appropriate authorized procurement representative or Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected Subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, Subcontract obligation, or specific cost allowance or disallowance provided for in this Subcontract. The understanding is incorporated into this Subcontract upon execution.

Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes provision.

### **3.4 Quick-Closeout Procedures**

Quick-closeout procedures are applicable when the conditions in the Federal Acquisition Regulations (FAR) 42.708(a) are satisfied.

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**3.5 Audit**

At any time or times before final payment, CH2M HILL may have the SUBCONTRACTOR's invoices or vouchers and statements of cost audited. Any payment may be (1) reduced by amounts found by CH2M HILL not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.

**3.6 Final Payment**

The SUBCONTRACTOR shall submit a completion invoice or voucher, designated as such, promptly upon completion of the Work, but no later than one year (or longer, as the authorized procurement representative may approve in writing) from the completion date. Upon approval of that invoice or voucher, and upon the SUBCONTRACTOR'S compliance with all terms of this Subcontract, CH2M HILL shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

The SUBCONTRACTOR shall pay to the CH2M HILL any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the SUBCONTRACTOR or any assignee under this Subcontract, to the extent that those amounts are properly allocable to costs for which CH2M HILL has reimbursed the SUBCONTRACTOR. Reasonable expenses incurred by the SUBCONTRACTOR for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by CH2M HILL. Before final payment under this Subcontract, the SUBCONTRACTOR and each assignee whose assignment is in effect at the time of final payment shall execute and deliver--

- A. An assignment to CH2M HILL, in form and substance satisfactory to CH2M HILL, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the SUBCONTRACTOR has been reimbursed by CH2M HILL under this Subcontract; and
- B. A release discharging CH2M HILL and the Government, their officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this Subcontract, except:
  1. Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;
  2. Claims (including reasonable incidental expenses) based upon liabilities of the SUBCONTRACTOR to third parties arising out of the performance of this Subcontract; provided, that the claims are not known to the SUBCONTRACTOR on the date of the execution of the release, and that the SUBCONTRACTOR gives notice of the claims in writing to the CH2M HILL within 6 years following the release date or notice of final payment date, whichever is earlier; and
  3. Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the SUBCONTRACTOR under the patent clauses of this Subcontract, excluding, however, any expenses arising from the SUBCONTRACTOR'S indemnification of the Government against patent liability.
- C. Any invoice submitted, which fails to comply with the terms of this Subcontract, including the requirements of form and documentation, may be returned to SUBCONTRACTOR. Any costs associated with the resubmission of a proper invoice shall be to SUBCONTRACTOR's account. Final payment shall not relieve the SUBCONTRACTOR of any obligation under this Subcontract.
- D. CH2M HILL may, at its sole discretion, withhold payment due for, but not limited to, the following reasons:
  - Substandard work or delays in the Work not corrected promptly.
  - Evidence that a claim has been or will be filed against SUBCONTRACTOR
  - Evidence that lower-tier SUBCONTRACTOR's or suppliers have not been properly paid.



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**3.7 Cash Discounts**

Cash discounts will apply from the date a correct, properly supported invoice is received by CH2M HILL.

**3.8 Limitation of Cost**

The parties estimate that performance of this Subcontract, exclusive of any fee, will not cost CH2M HILL more than (1) the estimated cost specified in the Compensation Schedule or, (2) if this is a cost-sharing Subcontract, CH2M HILL's share of the estimated cost specified in the Compensation Schedule. The SUBCONTRACTOR agrees to use its best efforts to perform the Work specified in the Compensation Schedule and all obligations under this Subcontract within the estimated cost, which, if this is a cost-sharing Subcontract, includes both CH2M HILL's and the SUBCONTRACTOR share of the cost.

The SUBCONTRACTOR shall notify CH2M HILL in writing whenever it has reason to believe the authorized cost limitation will be exceeded. This SUBCONTRACTOR notification shall be completed when (1) the estimated costs the SUBCONTRACTOR expects to incur under this Subcontract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the Compensation Schedule; or (2) The total cost for the performance of this Subcontract, exclusive of any fee, will be either greater or substantially less than had been previously estimated. As part of the notification, the SUBCONTRACTOR shall provide CH2M HILL a revised estimate of the total cost of performing this Subcontract.

Except as required by other provisions of this Subcontract, specifically citing and stated to be an exception to this clause: CH2M HILL is not obligated to reimburse the SUBCONTRACTOR for costs incurred in excess of (i) the estimated cost specified in the Subcontract or, (ii) if this is a cost-sharing Subcontract, the estimated cost to CH2M HILL specified in the Subcontract.

The SUBCONTRACTOR is not obligated to continue performance under this Subcontract (including actions under the Termination clause of this Subcontract) or otherwise incur costs in excess of the estimated cost specified in the Subcontract, until CH2M HILL (i) notifies the SUBCONTRACTOR in writing that the estimated cost has been increased and (ii) provides a revised estimated total cost of performing this Subcontract. If this is a cost-sharing Subcontract, the increase shall be allocated in accordance with the formula specified in the Subcontract.

No notice, communication, or representation in any form other than that specified above, or from any person other than CH2M HILL, shall affect this Subcontract's estimated cost to CH2M HILL. In the absence of the specified notice, CH2M HILL is not obligated to reimburse the SUBCONTRACTOR for any costs in excess of the estimated cost or, if this is a cost-sharing Subcontract, for any costs in excess of the estimated cost to CH2M HILL specified in the Subcontract, whether those excess costs were incurred during the course of the Subcontract or as a result of termination.

If the estimated cost specified in the Compensation Schedule is increased, any costs the SUBCONTRACTOR incurs before the increase that are in excess of the previously estimated cost shall be allowable to the same extent as if incurred afterward, unless CH2M HILL issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

Change orders shall not be considered an authorization to exceed the estimated cost to CH2M HILL specified in the Subcontract, unless they contain a statement increasing the estimated cost.

If this Subcontract is terminated or the estimated cost is not increased, CH2M HILL and the SUBCONTRACTOR shall negotiate an equitable distribution of all property produced or purchased under the Subcontract, based upon the share of costs incurred by each party.

**3.9 Reimbursement of Travel Expenses**

When authorized as part of the work scope on a Subcontract, the SUBCONTRACTOR will be reimbursed travel expenses incurred in performance provided that the expenses are for costs incurred for lodging, meals, and incidental expenses considered reasonable, allowable, and allocable to the extent that they do not exceed the maximum per diem rates in effect at the time of travel as set forth in *Federal Travel Regulations* (FTR) for travel within the 48 states:

[Federal Travel Regulations](#)

Additional guidance can be referenced through the Joint Travel Regulations (JTR) for travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, and territories and possessions of the United States or; Standardized Regulations (SR) for travel allowances in foreign areas.

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A per diem will be paid to SUBCONTRACTOR employees only who are assigned to a project site for twelve (12) months (365 days) or less. SUBCONTRACTOR employees assigned to a project for more than sixty (60) days will be expected to vacate hotel lodging and move into residential accommodations.

A. Short Term Assignments: Per diem and lodging will be paid in accordance with the rates established by the Federal Travel Regulations unless otherwise specified in this Subcontract. Home visits for less than four (4) consecutive weeks of assignment (on travel status) are not authorized.

B. Temporary Work Assignments (Sixty (60) days or less): Expenses associated with temporary work assignments that are sixty (60) days or less will be reimbursed under the following guidelines.

1. Transportation Other than Airline: Reimbursement of transportation costs will be at the current FTR per mile rate, for travel made by automobile, or actual fares for other public conveyance, reasonably incurred by SUBCONTRACTOR's personnel in traveling by the shortest and most direct route from his/her home office to (Hanford Site) Richland, Washington, or to other such locations and return, at the request of CH2M HILL. When travel is by automobile the most direct route shall be determined in accordance with the Rand McNally Standard Distance Chart. Local mileage costs while at the Hanford Site will not be reimbursed, unless specifically authorized by CH2M HILL.
2. Transportation by Airline: Every effort shall be made to plan required travel to obtain the lowest fares available. Actual receipts must document all airfare costs being invoiced under this Subcontract.
3. Car Rental: Compact or intermediate size cars are to be used as a first choice. Should a compact or intermediate size vehicle not be available, use of a more expensive vehicle must include a certification by the employee of the effort made to obtain the compact or intermediate vehicle. Actual receipts must document all car rental costs.
4. Lodging: Lodging will be reimbursed at the current FTR rate or at the actual cost if less than the allowable FTR rate. Actual receipts must document all lodging costs being invoiced under this Subcontract.
5. Meals and Incidental Expenses (M&IE): M&IE will be reimbursed at a flat rate per day; not to exceed the limits specified for the geographical location in the FTR. The daily living expense (M&IE) shall be prorated per the FTR during the first and last day of travel, inclusive of weekend trips home. Weekend stay-overs are paid when continued work is required during the following week.

C. Temporary Work Assignments – More Than Sixty (60) Days, but Less Than Three hundred Sixty-five (365) Days:

Effective the sixty-first day of the work assignment, the following modifications become effective: CH2M HILL will pay a reduced per diem rate of \$30 per day to compensate lodging and subsistence expenses. Receipts will not be required for lodging and subsistence while under the reduced per diem rate allowance.

Instead of using a rental car, a SUBCONTRACTOR owned vehicle may be used if determined to be more cost effective. However, shipping cost and arrangements must be pre-approved by the authorized procurement representative. CH2M HILL assumes no liability for accidents when SUBCONTRACTOR owned vehicles are used.

One trip home, to the primary residence, after each four (4) consecutive weeks of assignment (on travel status) to the Subcontract will be reimbursed when approved in advance by CH2M HILL as follows:

- Fourteen (14) day advanced coach airfare via the most direct route in accordance with FTR guidelines. If the project work assignment or an urgent situation prevents the Employee/SUBCONTRACTOR from obtaining the fourteen (14) day airfare; approval must be obtained from the authorized procurement representative. If a personal vehicle is used to return to the primary residence, mileage and lodging will be paid at the current FTR rates, not to exceed the fourteen- (14) day advance airfare rate.
- While traveling and at home, per-diem expenses are not reimbursable.
- The trips home are neither "bankable," transferable nor cumulative.

D. Work Assignments Three hundred sixty-five (365) Days and Over: Unless pre-approved by CH2M HILL, work assignments of more than three hundred sixty-five (365) consecutive days are considered permanent. Any incurred travel and living expenses, after three hundred sixty-five (365) consecutive days, are not reimbursable without written pre-approval from CH2M HILL. This provision shall also apply to SUBCONTRACTOR's employees who transfer to

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another Subcontract. The number of consecutive days for a transferred employee shall not restart with the new Subcontract but shall continue from the original Subcontract assignment date.

**3.10 Identification of Uncompensated Overtime**

Uncompensated overtime means the hours worked without additional compensation in excess of an average of 40 hours per week by direct charge employees who are exempt from the Fair Labor Standards Act. Compensated personal absences such as holidays, vacations, and sick leave shall be included in the normal work week for purposes of computing uncompensated overtime hours.

The SUBCONTRACTOR's reporting of uncompensated overtime must be consistent with its established accounting practices used to accumulate and report uncompensated overtime hours.

**3.11 Accruals**

The SUBCONTRACTOR shall provide monthly to Accounts Payable an estimate of the total billable cost from inception of the Subcontract through the current calendar month end. This information must be provided by email (preferred), fax, or mail by the 15<sup>th</sup> of each month. This data must be provided for each Subcontract release until all payments are received and the Subcontract is complete.

Email: [Accruals-CHG@rl.gov](mailto:Accruals-CHG@rl.gov)

Fax: (509) 372-8036

Mailing Address:

CH2MHILL Hanford Group, Inc.

ATTN: Accounts Payable / MSIN H6-09

PO Box 1500

Richland, WA 99352

**Monthly Subcontract-to-Date Cost Estimate Form** can be obtained at the following Internet address:

<http://www.hanford.gov/chmpmm/?page=19&parent=12>

**3.12 Taxes**

The SUBCONTRACTOR shall not assess and collect Washington State sales or use tax from CH2M HILL for materials with respect to this Subcontract. CH2M HILL is in possession of a DIRECT PAY PERMIT issued by Washington State Department of Revenue, and shall pay a use tax attributable to materials used in performing work under this Subcontract. A copy is available from CH2M HILL upon request. All other Federal, State, county, municipal or other taxes not excluded by the Washington State Department of Revenue Direct Pay Permit must be included in the Subcontract amount. If as a result of this Subcontract the SUBCONTRACTOR becomes eligible for Washington State Business and Occupation Tax Credit for Research and Development spending, the SUBCONTRACTOR shall take such tax credit and assign such tax credit to CH2M HILL. If the SUBCONTRACTOR applies for the Washington State Business and Occupation Tax Credit for Research and Development spending, the SUBCONTRACTOR shall notify CH2M HILL. The SUBCONTRACTOR shall fully cooperate with CH2M HILL at the SUBCONTRACTOR'S cost and expense in any tax audits or any tax assessment reviews or challenges.

**3.13 Right to Offset**

CH2M HILL, without waiver or limitation of any rights or remedies of CH2M HILL, shall be entitled from time to time to deduct from any amounts due or owing by CH2M HILL to SUBCONTRACTOR in connection with this Subcontract (or any other Subcontract with CH2M HILL), any and all amounts owed by SUBCONTRACTOR to CH2M HILL or the Government in connection with this Subcontract.

**3.14 Interest Payment**

No interest is payable to SUBCONTRACTOR for any claim it may have, except that specifically imposed by a court of competent jurisdiction on any judgment, and then only from the date of the entry of judgment.

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**ARTICLE 4.0 OBLIGATIONS OF SUBCONTRACTOR**

**4.1 Independent Contractor**

SUBCONTRACTOR is an independent SUBCONTRACTOR and shall maintain complete control of and responsibility for its employees, lower-tier Subcontractors, and agents. SUBCONTRACTOR shall also be solely responsible for the means and methods for carrying out the Work and for the safety of its employees. Nothing contained in this Subcontract shall be construed to create any employer-employee relationship between SUBCONTRACTOR's employees and CH2M HILL or to create a contractual relationship between the Government and SUBCONTRACTOR.

**4.2 Authorization for Lower-Tier Subcontracting\***

SUBCONTRACTOR shall not further Subcontract performance of all or any portion of the Work under this Subcontract, except as disclosed in the SUBCONTRACTOR's proposal or quotation, without first notifying CH2M HILL and obtaining CH2M HILL's written acceptance (consent) for subcontracting the Work and approval of the lower-tier Subcontractor.

**4.2 Right to Access**

CH2M HILL, its Clients, or agents shall have the right to inspect and evaluate SUBCONTRACTOR's facilities at any time during the procurement process and performance (from Subcontract award through final payment). CH2M HILL, its Clients, or agents shall have the right of access to lower-tier Subcontractors for the purpose of verifying the quality of their Work. Access to lower-tier Subcontractors shall be coordinated through the SUBCONTRACTOR and verification may be performed jointly with the SUBCONTRACTOR.

**4.3 SUBCONTRACTOR Responsibility\***

SUBCONTRACTOR agrees that it is fully responsible to CH2M HILL for the acts and omissions of SUBCONTRACTOR'S lower-tier Subcontractors and of persons either directly or indirectly employed by them and for the acts and omissions of persons directly employed by SUBCONTRACTOR. SUBCONTRACTOR shall not be relieved of its responsibility for the Work by virtue of any lower-tier Subcontracts it may place regardless of CH2M HILL's acceptance of such lower-tier Subcontract.

The SUBCONTRACTOR is responsible for the quality of work, material, and equipment supplied under the term of this Subcontract. SUBCONTRACTOR management and employees are expected to learn from experience, prevent adverse operating incidents, and share good work practices and lessons learned. The SUBCONTRACTOR shall be responsible for assuring that all lower-tier Subcontractors implement adequate quality, process, cost, schedule and safety controls. All applicable technical and quality requirements imposed by this Subcontract shall be flowed down to lower-tier Subcontractors through appropriate procurement documents. The SUBCONTRACTOR retains the responsibility for the quality of all work, material, and equipment provided by lower-tier Subcontractors.

The SUBCONTRACTOR shall hold a pre-fabrication conference with CH2M HILL prior to starting fabrication of items by SUBCONTRACTOR and/or its lower-tier Subcontractors.

Nothing contained in this Subcontract will be construed to create any contractual relationship between any lower-tier Subcontractor and CH2M HILL.

**4.4 SUBCONTRACTOR Certification\***

SUBCONTRACTOR will provide certification that the lower-tier Subcontractor has the necessary permits and licenses for the Work to be performed. The SUBCONTRACTOR guarantees that its lower-tier Subcontractors will comply fully with the terms of this Subcontract applicable to the portion of the Work performed. If any portion of the Work, which has been subcontracted by the SUBCONTRACTOR, and is not, performed in accordance with this Subcontract, on request by CH2M HILL, the lower-tier Subcontractor will be replaced at no additional cost to CH2M HILL and will not be employed again on the Subcontract unless so authorized by CH2M HILL.

**4.5 SUBCONTRACTOR Assignment\***

SUBCONTRACTOR shall include a provision in every lower-tier Subcontract that authorizes assignment of such lower-tier Subcontracts to CH2M HILL without requiring further consent from such lower-tier Subcontractors.

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**4.6 SUBCONTRACTOR Communications\***

Following notice to the SUBCONTRACTOR, CH2M HILL shall have the right to contact SUBCONTRACTOR's lower-tier Subcontractors to discuss the lower-tier Subcontractor's Work progress.

**4.7 Organizational Conflicts of Interest\***

SUBCONTRACTOR warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, that the SUBCONTRACTOR has disclosed all such relevant information to CH2M HILL prior to award of this Subcontract and that there are no facts which could give rise to an organizational conflict of interest during the Work's performance.

**4.8 Inspection of Supplies\***

- A. The SUBCONTRACTOR shall provide and maintain an inspection system acceptable to CH2M HILL covering the supplies, fabricating methods, and special tooling under this Subcontract. Complete records of all inspection work performed by the SUBCONTRACTOR shall be maintained and made available to CH2M HILL during Subcontract performance and for as long afterwards as the Subcontract requires.
- B. CH2M HILL has the right to inspect and test the Subcontract supplies, to the extent practicable at all places and times, including the period of manufacture, and in any event before acceptance. CH2M HILL may also inspect the plant or plants of the SUBCONTRACTOR or any lower-tier Subcontractor engaged in the Subcontract performance. CH2M HILL shall perform inspections and tests in a manner that will not unduly delay the work.
- C. If CH2M HILL performs inspections and tests on the premises of the SUBCONTRACTOR or a lower-tier Subcontractor, the SUBCONTRACTOR shall furnish and shall require lower-tier Subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.
- D. Unless otherwise specified in the Subcontract, CH2M HILL shall accept supplies as promptly as practicable after delivery.
- E. At any time during Subcontract performance, but no later than one year (or such other time as may be specified in the Subcontract) after acceptance of the supplies to be delivered under the Subcontract, CH2M HILL may require the SUBCONTRACTOR to replace or correct any supplies that are nonconforming at time of delivery. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with Subcontract requirements. Except as otherwise provided in this provision, the cost of replacement or correction shall be included in allowable cost, consistent with provisions of this Subcontract, but no additional fee shall be paid. The SUBCONTRACTOR shall not tender for acceptance supplies required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.
- F. If the SUBCONTRACTOR fails to proceed with reasonable promptness to perform required replacement or correction, CH2M HILL may --
  - 1. By Subcontract or otherwise, perform the replacement or correction and charge to the SUBCONTRACTOR any increased cost or make an equitable reduction in any fixed fee paid or payable under the Subcontract;
  - 2. Require delivery of undelivered supplies at an equitable reduction in any fixed fee paid or payable under the Subcontract; or
  - 3. Terminate the Subcontract for default.Failure to agree on the amount of increased cost to be charged to the SUBCONTRACTOR or to the reduction in the fixed fee shall be a dispute.
- G. CH2M HILL may at any time require the SUBCONTRACTOR to correct or replace, without cost to CH2M HILL, nonconforming supplies, if the non-conformances are due to --
  - 1. Fraud, lack of good faith, or willful misconduct on the part of the SUBCONTRACTOR's managerial personnel; or
  - 2. The conduct of one or more of the SUBCONTRACTOR's employees selected or retained by the SUBCONTRACTOR after any of the SUBCONTRACTOR's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.
- H. This provision applies in the same manner to corrected or replacement supplies as to supplies originally delivered.

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- I. The SUBCONTRACTOR shall have no obligation or liability under this Subcontract to replace supplies that were nonconforming at the time of delivery, except as provided in this provision or as may be otherwise provided in the Subcontract.
- J. Except as otherwise specified in the Subcontract, the SUBCONTRACTOR's obligation to correct or replace Government-Furnished Property (GFP) shall be governed by the provision pertaining to CH2M HILL property or Government-Furnished Property (GFP).

**4.9 Final Acceptance**

When the SUBCONTRACTOR deems the Work fully completed, including satisfactory completion of such inspections, tests and documentation as are specified in this Subcontract, the SUBCONTRACTOR shall, within ten (10) working days, give a written notice specifying the Work completed and the date it was completed. Within thirty (30) calendar days after receipt of the notice, CH2M HILL shall inspect the Work and shall either reject the Work and specify defective or uncompleted portions of the Work, or shall give the SUBCONTRACTOR written acceptance of the Work either for the purpose of final payment only, or for the purposes of final payment and acceptance.

In the event CH2M HILL rejects the Work and specifies defective or uncompleted portions of the Work, SUBCONTRACTOR shall, within five (5) working days, provide for CH2M HILL review and approval, a schedule detailing when all defects will be corrected and/or when the Work will be completed and shall proceed to remedy such defective and uncompleted portions of the Work. Thereafter, the SUBCONTRACTOR shall again give CH2M HILL a written notice of completing the Work, specifying a new date for the completion of the Work based upon the date such defective or uncompleted portions of the Work were corrected. The foregoing procedure shall apply again and successively thereafter until CH2M HILL has given SUBCONTRACTOR written final acceptance for purposes of final payment.

Any failure by CH2M HILL to inspect or to reject the Work or to reject SUBCONTRACTOR's notice of completion as set forth above, shall not be deemed to be final acceptance of the Work for any purpose by CH2M HILL nor imply acceptance of, or agreement with, said notice.

**4.10 Non-Conformance Reports (NCRs)**

Nonconformance Reports (NCRs) generated by SUBCONTRACTOR, sub-tier Subcontractors and suppliers of items with the proposed disposition of "Use as is" or "Repair" shall be submitted for approval to CH2M HILL Design Authority, Engineering, and Quality Assurance before SUBCONTRACTOR initiates any remedial action on the nonconformance.

**4.11 Price Anderson Amendment Act (PAAA)**

As a government Prime Contractor providing nuclear safety-related services to the Department of Energy, CH2M HILL is required by contract to comply with the nuclear safety rules contained in the following regulations:

- 10 CFR 820, *Procedural Rules for DOE Nuclear Activities*,
- 10 CFR 830, *Nuclear Safety Management*,
- 10 CFR 835, *Occupational Radiation Protection*, and
- 10 CFR 708, *Contractor Employee Protection*.

If specified in the Subcontract, one or more of the nuclear safety regulations identified above have been determined to apply to this Work and therefore compliance is incumbent upon the SUBCONTRACTOR. The SUBCONTRACTOR will flow down these PAAA requirements to its lower-tier Subcontractors for Work performed under this Subcontract.

The SUBCONTRACTOR will accurately, completely, and voluntarily report the nature and actions taken in response to any non-compliance with the nuclear safety rules to the CH2M HILL PAAA Director, via the authorized procurement representative, and will take prompt and comprehensive corrective action to prevent recurrence.

**4.12 Indemnification\***

SUBCONTRACTOR agrees to defend, indemnify, and hold harmless CH2M HILL and the Government, the affiliated companies of each, and all of their directors, officers, employees, agents, and representatives, from and against:

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- A. Any claim, demand, cause of action, liability, loss or expense arising by reason of SUBCONTRACTOR's failure to comply with any law, ordinance, regulation, rule or order. This clause includes, but is not limited to, fines or penalties by Government authorities and claims arising from SUBCONTRACTOR's actual or asserted failure to pay taxes.
- B. Any claim, demand, cause of action, liability, judgment or damages arising from actual or asserted violation or infringement of rights in any patent, copyright, proprietary information, trade secret or other property right caused or alleged to be caused by the use or sale of goods, materials, equipment, methods, processes, designs or information, including construction methods, construction equipment, and temporary construction facilities, furnished by SUBCONTRACTOR or its lower-tier Subcontractors in performance of the Work. Should any goods or services provided by SUBCONTRACTOR become, or appear likely to become, the subject of a claim of infringement of a patent, copyright or other property right, SUBCONTRACTOR shall, at CH2M HILL's option, either procure for CH2M HILL and the Government the right to continue using such goods or services, replace same with equivalent, non-infringing goods or services, or modify the goods or services so that the use thereof becomes non-infringing, provided that any such modification or replacement is of equal quality and provides equal performance to the infringing good or services.
- C. Any claim, demand, cause of action, liability, judgment or damages arising from SUBCONTRACTOR's negligence or acts or omissions which results in injury to or death of persons (including employees of CH2M HILL, the Government, SUBCONTRACTOR and SUBCONTRACTOR's lower-tier Subcontractors) or results in damage to or loss of property (including the property of CH2M HILL or the Government). SUBCONTRACTOR's defense and indemnity obligations hereunder include claims and damages arising from non-delegable duties of CH2M HILL or arising from use by SUBCONTRACTOR of construction equipment, tools, scaffolding or facilities furnished to SUBCONTRACTOR by CH2M HILL or the Government.
- D. Any claim, demand, cause of action, liability, judgment or damages arising out of any act or omission by SUBCONTRACTOR that results in contamination, pollution, or public or private nuisance.
- E. SUBCONTRACTOR's defense and indemnity obligations shall include the duty to reimburse any attorney's fees and expenses incurred by CH2M HILL or the Government for legal action to enforce SUBCONTRACTOR's indemnity obligations.
- F. In the event that the indemnity provisions in this Subcontract are contrary to the law governing this Subcontract, then the indemnity obligations applicable hereunder shall be construed to be to the fullest extent allowable by applicable law.
- G. With respect to claims by employees of SUBCONTRACTOR or its lower-tier Subcontractors, the indemnity obligations created under this clause shall not be limited by the fact of, amount, or type of benefits or compensation, payable by or for SUBCONTRACTOR, its lower-tier Subcontractors or suppliers under any workers compensation, disability benefits, or other employee benefits acts or regulations, and SUBCONTRACTOR, specifically and knowingly, waives any limitation of liability arising from workers' compensation or such other acts or regulations.

**4.13 Limitation of Liability\***

Except to the extent that the SUBCONTRACTOR is expressly responsible under this Subcontract for deficiencies in the services required to be performed under the Subcontract (including any materials furnished in conjunction with those services), the SUBCONTRACTOR shall not be liable for loss of or damage to property of the Government that (1) occurs after CH2M HILL acceptance of services performed under this Subcontract and (2) results from any defects or deficiencies in the services performed or materials acceptably furnished.

The limitation of liability shall not apply when a defect or deficiency in, or the CH2M HILL's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the SUBCONTRACTOR's managerial personnel. The term "SUBCONTRACTOR's Managerial Personnel", as used in this clause, means the SUBCONTRACTOR's directors, officers, and any of the SUBCONTRACTOR's managers, superintendents, or equivalent representatives who have supervision or direction of:

- All or substantially all of the SUBCONTRACTOR's business;

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- All or substantially all of the SUBCONTRACTOR's operations at any one plant, laboratory, or separate location at which the Subcontract is being performed; or
- A separate and complete major industrial operation connected with the performance of the Subcontract.

If the SUBCONTRACTOR carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government or the CH2M HILL through the SUBCONTRACTOR's performance of services or furnishing of material under this Subcontract, the SUBCONTRACTOR shall be liable to the Government or CH2M HILL, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after CH2M Hill's acceptance of, and resulting from any defects and deficiencies, in services performed or materials furnished under this Subcontract.

The SUBCONTRACTOR shall include this provision, including this paragraph, supplemented as necessary to reflect the relationship of the subcontracting parties, in all lower-tier Subcontracts over \$25,000.\*

**4.14 Codes, Laws, and Regulations\***

SUBCONTRACTOR shall comply strictly with local, municipal, state, federal, and governmental laws, orders, codes, and regulations applicable to SUBCONTRACTOR's operations in the performance of the Work hereunder. Prior to offering the item or service for acceptance, the SUBCONTRACTOR shall verify and document that the item or service being furnished complies with the procurement requirements. Where required by code, regulation, or Subcontract requirement, documentary evidence that items conform to procurement documents shall be available at the facility site prior to installation or use.

SUBCONTRACTOR shall not, under any circumstances apply to or enter into negotiations with any governmental authority or agency for acceptance of variations from or revisions to safety or health, or environmental laws or regulations relating to this Subcontract or to the performance thereof, without CH2M HILL's prior written approval.

SUBCONTRACTOR shall not, under any circumstances, cause or permit, in connection with the Work to be performed hereunder, the discharge, emission or release of any hazardous substance and/or waste, pollutant, contaminant or other substance in violation of any applicable laws, rules or regulations which are now or hereafter promulgated by any governmental authorities having jurisdiction over the Work. SUBCONTRACTOR shall comply with all regulatory requirements applicable to the Work performed under this Subcontract and shall be responsible for compliance with all hazardous waste, health and safety, notice, training, and environmental protection laws, rules, regulations and requirements. "Hazardous waste" includes all substances, which are or may be identified as such in applicable Federal or State laws or regulations. SUBCONTRACTOR shall submit to CH2M HILL material safety data sheets (OSHA Form 20) as required by applicable regulation.

As an inducement to award of this Subcontract, SUBCONTRACTOR warrants full compliance and that it will adhere to all applicable project hazardous waste procedures and, if necessary, obtain or arrange for, at its expense and in accordance with the terms of this Subcontract, all identification numbers, permits, applications, and other requirements in connection with the Work. SUBCONTRACTOR agrees that it will not store any hazardous wastes at the jobsite for periods in excess of ninety (90) days or in violation of the applicable jobsite storage limitations imposed by law, the Government or CH2M HILL, whichever shall be more restrictive. SUBCONTRACTOR further agrees that it will not permit any accumulation in excess of the small quantity generator exclusion of 40 CFR, Part 261, or other applicable laws, as amended. SUBCONTRACTOR agrees to take, at its expense all actions necessary to protect third parties, including without limitation, employees and agents of the Government and CH2M HILL from any exposure to, or hazards of, hazardous and/or toxic wastes or substances generated or utilized in SUBCONTRACTOR's operations. SUBCONTRACTOR agrees to report to the appropriate governmental agencies all discharges, releases, and spills of hazardous substances and/or wastes required to be reported by law and to immediately notify CH2M HILL of the same.

**4.15 Foreign Ownership, Control, and Influence\***

For purposes of this provision, a foreign interest is defined as any of the following:

- A foreign government or foreign government agency;
- Any form of business enterprise organized under the laws of any country other than the United States or its possessions;



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- Any form of business enterprise organized or incorporated under the laws of the United States, or a State or other jurisdiction within the United States, which is owned, controlled, or influenced by a foreign government, agency, firm, corporation or person; or
- Any person who is not a United States citizen.

Foreign ownership, control, or influence (FOCI) means the situation where the degree of ownership, control, or influence over a SUBCONTRACTOR by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information or special nuclear, material as defined in 10 CFR Part 710, may result.

The SUBCONTRACTOR shall immediately provide CH2M HILL written notice of any changes in the extent and nature of FOCI over the SUBCONTRACTOR's status. Further, notice of changes in ownership or control, which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice, shall also be furnished concurrently to CH2M HILL.

In those cases where a SUBCONTRACTOR has changes involving FOCI, CH2M HILL must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, CH2M HILL shall consider proposals made by the SUBCONTRACTOR to avoid or mitigate foreign influences.

If CH2M HILL at any time determines that the SUBCONTRACTOR is, or is potentially, subject to FOCI, the SUBCONTRACTOR shall comply with such instructions as CH2M HILL shall provide in writing to safeguard any classified information or significant quantity of special nuclear material.

The SUBCONTRACTOR agrees to insert terms that conform substantially to the language of this provision including this paragraph in all lower-tier subcontracts under this Subcontract that will require access to classified information or a significant quantity of special nuclear material. Information to be provided by a lower-tier Subcontractor pursuant to this provision may be submitted directly to CH2M HILL.

Information submitted by the SUBCONTRACTOR or any affected lower-tier Subcontractor as required pursuant to this provision shall be treated by CH2M HILL to the extent permitted by law, as business or financial information submitted in confidence to be used solely for purposes of evaluating FOCI.

The requirements of this provision are in addition to the requirement that a SUBCONTRACTOR obtain and retain the security clearances required by the Subcontract. This provision shall not operate as a limitation on CH2M HILL's rights, including its rights to terminate this Subcontract.

CH2M HILL may terminate this contract for default either if the SUBCONTRACTOR fails to meet obligations imposed by this provision (e.g., provide the information required by this provision, comply with CH2M HILL's instructions about safeguarding classified information, or make this provision applicable to lower-tier Subcontractors) or if, in CH2M HILL's judgment, the SUBCONTRACTOR creates a FOCI situation in order to avoid performance or a termination for default. CH2M HILL may terminate this Subcontract for convenience if the SUBCONTRACTOR becomes subject to FOCI and for reasons other than avoidance of performance of the Subcontract, cannot, or chooses not to, avoid or mitigate the FOCI problem.

**4.16 Publicity\***

SUBCONTRACTOR will not disclose the nature of its Work on this Subcontract or engage in any other publicity or public media disclosures with respect to this Subcontract without the prior written consent of CH2M HILL.

**4.17 Key Personnel**

Certain SUBCONTRACTOR employees may be designated as Key Personnel in this Subcontract. The SUBCONTRACTOR agrees those individuals determined to be key individuals will not be changed or reassigned without the written agreement of CH2M HILL. If any of the designated key personnel become unavailable for assignment for Work under this Subcontract, the SUBCONTRACTOR, with the prior approval of CH2M HILL, will replace the employee with an individual substantially equal in abilities or qualifications.

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**4.18 Suspension of Work\***

The authorized procurement representative may order the SUBCONTRACTOR, in writing, to suspend, delay, or interrupt all or any part of the Work of this Subcontract for the period of time that the authorized procurement representative determines appropriate for the convenience of CH2M HILL. The notice of suspension shall specify the date of suspension and the estimated duration of the suspension. Such suspensions under this Subcontract shall not exceed one hundred eighty (180) consecutive calendar days each nor in aggregate more than two hundred seventy (270) calendar days.

Upon receiving any such notice of suspension, the SUBCONTRACTOR shall promptly suspend further performance of the Work to the extent specified, and during the period of such suspension shall properly care for and protect all Work in progress and materials, supplies and equipment that the SUBCONTRACTOR has on hand for performance of the Work. Upon the request of CH2M HILL, the SUBCONTRACTOR shall promptly deliver to CH2M HILL copies of outstanding Subcontracts of the SUBCONTRACTOR, and shall take such action relative to such Subcontracts as may be directed by CH2M HILL. The SUBCONTRACTOR shall use its best efforts to utilize its material, labor, and equipment in such a manner as to mitigate costs associated with the suspension.

CH2M HILL may at any time withdraw the suspension of Work as to all or part of the suspended Work by written notice to the SUBCONTRACTOR specifying the effective date and scope of withdrawal, and the SUBCONTRACTOR shall resume diligent performance of the Work for which the suspension is withdrawn on the specified effective date of withdrawal.

If the performance of all or any part of the Work exceeds the suspension days specified in this provision, an adjustment shall be made for any increase in the cost of performance of this Subcontract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the Subcontract shall be modified in writing accordingly. However, no adjustment shall be made under this provision for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the SUBCONTRACTOR, or for which an equitable adjustment is provided for or excluded under any other provision of this Subcontract. The SUBCONTRACTOR shall not be entitled to any profits or any damages because of such suspension or withdrawals of suspension.

**4.19 Suspect and Counterfeit Items\***

CH2M HILL reserves the right to question and/or require SUBCONTRACTOR to certify and/or furnish proof regarding the quality, authenticity, application or fitness for use of the items supplied by the SUBCONTRACTOR under this Subcontract. The SUBCONTRACTOR shall establish and implement appropriate measures to prevent the procurement and incorporation of suspect and counterfeit parts into the deliverable for this subcontract. In addition, the SUBCONTRACTOR shall report the discovery of suspect and counterfeit items in sufficient details to establish all circumstances relative to the occurrence.

Any items furnished as part of this Subcontract and which have been previously found by CH2M HILL, the Department of Energy, or the Department of Commerce to be counterfeit or which are listed by the Department of Commerce to be suspect will be deemed, without more proof, to be subject to the above requirement of further proof or certification. CH2M HILL also reserves the right to question the circumstances and make available a report of any such review to the Government. All costs associated with conducting inquiries into and reporting on components determined to be counterfeit shall be recovered by CH2M HILL from the SUBCONTRACTOR.

**4.20 SUBCONTRACTOR Generated Documentation**

Documents that furnish evidence of the quality of items and/or activities affecting quality are considered quality assurance records and shall be prepared and controlled in accordance with approved procedures. Submittal of these documents to CH2M HILL shall be accomplished as specified in the Statement of Work, specification, or other procurement documents.

**4.21 Acquisition of Real Property**

Notwithstanding any other provision of this Subcontract, the SUBCONTRACTOR will obtain prior approval from the authorized procurement representative when, in performance of this Subcontract, the SUBCONTRACTOR acquires or proposes to acquire use of real property by lease when the Government will ultimately assume the liability for, or will otherwise pay for the obligation under the lease as a reimbursable Subcontract cost.

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**4.22 Management of SUBCONTRACTOR-Held Government-Owned Property\***

This provision specifies requirements which Government-Furnished Property (GFP) is either provided or purchased in accomplishing the Work under this Subcontract.

- A. CH2M HILL reserves the right to furnish any property or services required for the performance of the Work under this Subcontract.
- B. Except as otherwise provided by the authorized procurement representative, title to all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the SUBCONTRACTOR, for the cost of which the SUBCONTRACTOR is entitled to be reimbursed as a direct item of cost under this Subcontract, shall pass directly from the vendor to the GOVERNMENT. CH2M HILL reserves the right to inspect, and to accept or reject, any item of such property. The SUBCONTRACTOR shall make such disposition of rejected items as the authorized procurement representative shall direct. Title to other property, the cost of which is reimbursable to the SUBCONTRACTOR under this Subcontract, shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this Subcontract, or (2) commencement of processing or use of such property in the performance of this Subcontract, or (3) reimbursement of the cost thereof by CH2M HILL, whichever first occurs. Property furnished by the CH2M HILL and property purchased by the SUBCONTRACTOR, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the incorporation of the property into or the attachment to any property not owned by the Government, nor shall such Government property or any part, be or become a fixture or lose its identity by reason of affixation to any realty.
- C. To the extent directed by the authorized procurement representative, the SUBCONTRACTOR shall identify Government property coming into the SUBCONTRACTOR's possession or custody, by marking and segregating in such a way, satisfactory to the authorized procurement representative, as shall indicate its ownership by the Government.
- D. The SUBCONTRACTOR shall make such disposition of Government property which has come into the possession or custody of the SUBCONTRACTOR under this Subcontract as the authorized procurement representative may direct during the progress of the work or upon completion or termination of this Subcontract. The SUBCONTRACTOR may, upon such terms and conditions as the authorized procurement representative may approve, sell, or exchange such property, or acquire such property at a price agreed upon by the authorized procurement representative and the SUBCONTRACTOR as the fair value thereof. The amount received by the SUBCONTRACTOR as the result of any disposition, or the agreed fair value of any such property acquired by the SUBCONTRACTOR, shall be applied in reduction of costs allowable under this Subcontract or shall be otherwise credited to account to CH2M HILL, as the authorized procurement representative may direct. Upon completion of the work or the termination of this Subcontract, the SUBCONTRACTOR shall render an accounting, as prescribed by the authorized procurement representative, of all Government property which had come into the possession or custody of the SUBCONTRACTOR under this Subcontract.
- E. Management of property and classified materials:
  - 1. The SUBCONTRACTOR shall take all reasonable precautions, and such other actions as may be directed by the authorized procurement representative, or in the absence of such direction, in accordance with sound business practice, to safeguard and protect Government property in the SUBCONTRACTOR's possession or custody.
  - 2. In addition, the SUBCONTRACTOR shall ensure that adequate safeguards are in place, and adhered to, for the handling, control and disposition of high-risk property and classified materials throughout the life cycle of the property and materials consistent with the policies, practices and procedures for property management contained in the Federal Property Management regulations (41 CFR chapter 101), the Department of Energy Property Management regulations (41 CFR chapter 109), and other applicable regulations.
  - 3. High-risk property is property, the loss, destruction, damage to, or the unintended or premature transfer of which could pose risks to the public, the environment, or the national security interests of the United States. High-risk property includes proliferation sensitive, nuclear related dual use, export controlled, chemically or radioactively contaminated, hazardous, and specially designed and prepared property, including property on the militarily critical technologies list.
- F. Risk of Loss of Government-Property:
  - 1. The SUBCONTRACTOR shall not be liable for the loss or destruction of, or damage to, Government property unless such loss, destruction, or damage was caused by any of the following:
    - a. Willful misconduct or lack of good faith on the part of the SUBCONTRACTOR's managerial personnel;

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- b. Failure of the SUBCONTRACTOR's managerial personnel to take all reasonable steps to comply with any appropriate written direction of the authorized procurement representative to safeguard such property under paragraph E of this provision; or
    - c. Failure of SUBCONTRACTOR managerial personnel to establish, administer, or properly maintain an approved property management system in accordance with paragraph I. 1 of this provision.
  - 2. If, after an initial review of the facts, the authorized procurement representative informs the SUBCONTRACTOR that there is reason to believe that the loss, destruction of, or damage to the Government property results from conduct falling within one of the categories set forth above, the burden of proof shall be upon the SUBCONTRACTOR to show that the SUBCONTRACTOR should not be required to compensate CH2M HILL for the loss, destruction, or damage.
  - 3. In the event that the SUBCONTRACTOR is determined liable for the loss, destruction or damage to Government property in accordance with F.1 of this provision, the SUBCONTRACTOR's compensation to CH2M HILL shall be determined as follows:
    - a. For damaged property, the compensation shall be the cost of repairing such damaged property, plus any costs incurred for temporary replacement of the damaged property. However, the value of repair costs shall not exceed the fair market value of the damaged property. If a fair market value of the property does not exist, the CH2M HILL authorized procurement representative shall determine the value of such property, consistent with all relevant facts and circumstances.
    - b. For destroyed or lost property, the compensation shall be the fair market value of such property at the time of such loss or destruction, plus any costs incurred for temporary replacement and costs associated with the disposition of destroyed property. If a fair market value of the property does not exist, the CH2M HILL authorized procurement representative shall determine the value of such property, consistent with all relevant facts and circumstances.
  - 4. The SUBCONTRACTOR shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except to the extent that the authorized procurement representative may have expressly required the SUBCONTRACTOR to carry such insurance under another provision of this Subcontract.
- G. Steps to be Taken in Event of Loss:
- In the event of any damage, destruction, or loss to Government property in the possession or custody of the SUBCONTRACTOR with a value above the threshold set out in the SUBCONTRACTOR's approved property management system, the SUBCONTRACTOR:
- 1. Shall immediately inform the authorized procurement representative of the occasion and extent thereof,
  - 2. Shall take all reasonable steps to protect the property remaining, and
  - 3. Shall repair or replace the damaged, destroyed, or lost property in accordance with the written direction of the authorized procurement representative. The SUBCONTRACTOR shall take no action prejudicial to the right of CH2M HILL to recover therefore, and shall furnish to CH2M HILL, on request, all reasonable assistance in obtaining recovery.
- H. Government property shall be used only for the performance of this Subcontract.
- I. Property Management:
- 1. Property Management System:
    - a. The SUBCONTRACTOR shall establish, administer, and properly maintain an approved property management system of accounting for and control, utilization, maintenance, repair, protection, preservation, and disposition of Government property in its possession under the Subcontract. The SUBCONTRACTOR's property management system shall be submitted to the authorized procurement representative for approval and shall be maintained and administered in accordance with sound business practice, applicable Federal Property Management regulations and Department of Energy Property Management regulations, and such directives or instructions which the authorized procurement representative may from time to time prescribe.
    - b. In order for a property management system to be approved, it must provide for:
      - i. Comprehensive coverage of property from the requirement identification, through its life cycle, to final disposition;
      - ii. Employee personal responsibility and accountability for Government-Owned Property;

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- iii. Full integration with the SUBCONTRACTOR's other administrative and financial systems; and
  - iv. A method for continuously improving property management practices through the identification of best practices established by "best in class" performers.
  - c. Approval of the SUBCONTRACTOR's property management system shall be contingent upon the completion of the baseline inventory as provided in subparagraph I. 2 of this provision.
2. Property Inventory:
- a. Unless otherwise directed by the authorized procurement representative, the SUBCONTRACTOR shall within six months after execution of the Subcontract provide a baseline inventory covering all items of Government property.
  - b. If the SUBCONTRACTOR is succeeding another Subcontractor in the performance of this Subcontract, the SUBCONTRACTOR shall conduct a joint reconciliation of the property inventory with the predecessor Subcontractor. The SUBCONTRACTOR agrees to participate in a joint reconciliation of the property inventory at the completion of this Subcontract. This information will be used to provide a baseline for the succeeding Subcontract as well as information for closeout of the predecessor Subcontract.
- J. The term "SUBCONTRACTOR's managerial personnel" as used in this provision means the SUBCONTRACTOR's directors, officers and any of its managers, superintendents, or other equivalent representatives who have supervision or direction of:
- 1. All or substantially all of the SUBCONTRACTOR's business; or
  - 2. All or substantially all of the SUBCONTRACTOR's operations at any one facility or separate location to which this Subcontract is being performed; or
  - 3. A separate and complete major industrial operation in connection with the performance of this Subcontract; or
  - 4. A separate and complete major construction, alteration, or repair operation in connection with performance of this Subcontract; or
  - 5. A separate and discrete major task or operation in connection with the performance of this Subcontract.
- K. The SUBCONTRACTOR shall include this provision in all time and material or cost reimbursable lower-tier Subcontracts.

**4.23 Holiday and Work Schedules**

Daily work schedules and facility operations are NOT uniform among Hanford Site Contractors. In addition, some organizations and facilities observe alternate Friday closures. Accordingly, BEFORE scheduling deliveries, the SUBCONTRACTOR shall make specific schedule arrangements for the delivery of materials with the authorized procurement representative, Facility Manager, Delivery Warehouse Manager, or Building Manager, etc. The authorized procurement representative will not be liable for the cost of any delays, demurrage, layover, extra travel days, etc. which result from SUBCONTRACTOR's failure to obtain a specific schedule in advance. Current Hanford Site Facility Closure days are: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day (and following Friday), Christmas Eve and Christmas Day.

**4.24 SUBCONTRACTOR's Personnel and Notification**

Any employee of the SUBCONTRACTOR deemed by CH2M HILL, in their sole judgment, to be objectionable shall be removed from the job-site immediately upon authorized procurement representative request and shall be promptly replaced by the SUBCONTRACTOR at no extra expense to CH2M HILL. The SUBCONTRACTOR shall nevertheless retain all authority and control over its employees, including responsibility for all costs arising from providing reasonable accommodations for its employees.

Upon verbal or written notification by the authorized procurement representative that a SUBCONTRACTOR employee's services are no longer required under this Subcontract, the SUBCONTRACTOR shall notify the impacted employee within twenty-four (24) hours of receiving authorized procurement representative notification. The SUBCONTRACTOR then shall confirm in writing within twenty-four (24) hours to the authorized procurement representative that notification has been given to the impacted employee.

If requested by the authorized procurement representative, The SUBCONTRACTOR shall furnish CH2M HILL with the names and addresses of lower-tier Subcontractors and others who have performed or are performing the Work under this Subcontract.

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**4.25 Possession Prior To Completion**

CH2M HILL and/or the Government shall have the right to move into SUBCONTRACTOR's working and storage areas and the right to take possession of or use any completed or partially completed part of SUBCONTRACTOR's Work as CH2M HILL or the Government deem necessary for their operations. In the event CH2M HILL or the Government desire to exercise the foregoing right, CH2M HILL will so notify SUBCONTRACTOR in writing. Such possession or use shall not constitute acceptance of SUBCONTRACTOR's Work.

**4.26 Hazardous or Toxic Substances**

If the Work under this Subcontract involves hazardous or toxic substances, SUBCONTRACTOR will comply with all safety or training requirements promulgated by law or regulation.

**4.27 Inspection, Testing, and Quality Control**

SUBCONTRACTOR shall inspect all materials, supplies, and equipment, which are to be incorporated in the Work. In addition, SUBCONTRACTOR shall conduct a continuous program of quality control for all Work. If required in the Subcontract Statement of Work, SUBCONTRACTOR's quality control program and inspection procedures for the foregoing may be required to be submitted to CH2M HILL for review. However, neither review nor acceptance of SUBCONTRACTOR's quality control program or inspection procedures shall relieve SUBCONTRACTOR of its obligation to conduct comprehensive inspections of the Work, to furnish conforming materials, to perform acceptable Work, and to provide adequate safety precautions in conformance with this Subcontract.

Documents that furnish evidence of the quality of items and/or activities affecting quality are considered quality assurance records and shall be prepared and controlled in accordance with approved procedures. Submittal of these documents to CH2M HILL shall be accomplished as specified in the Statement of Work or other procurement documents.

The offering of the item is evidence of the SUBCONTRACTOR's verification that all procurement requirements have been satisfied.

SUBCONTRACTOR shall, during the course of performance of the Work hereunder, without additional compensation, make or cause to be made all tests required by this Subcontract. CH2M HILL may require additional inspections and tests. SUBCONTRACTOR shall furnish CH2M HILL with satisfactory documentation of the results of all inspections and tests. CH2M HILL shall be given not less than five (5) working days notice of any tests to be made by SUBCONTRACTOR or SUBCONTRACTOR's lower-tier Subcontractors in order that CH2M HILL may witness any such tests.

CH2M HILL and the Government, and their representatives, and others as may be required by applicable laws, ordinances, and regulations, shall have the right at all reasonable times to inspect the Work and all material, supplies, and equipment for the Work. SUBCONTRACTOR shall provide, or cause to be provided access and sufficient, safe, and proper facilities for such inspections. Neither the failure to make such inspection nor to discover defective workmanship, materials or equipment, nor approval of or payment to SUBCONTRACTOR for such Work, materials or equipment shall prejudice the right of CH2M HILL or the Government.

Rejection by CH2M HILL of any or all parts of defective Work for failure to conform to this Subcontract shall be final and binding. Such rejected Work shall be promptly corrected or replaced by SUBCONTRACTOR. If SUBCONTRACTOR fails to commence and diligently continue correction or replacement of such rejected Work immediately after receipt of written notice from CH2M HILL to correct or replace the rejected Work, CH2M HILL may, at its option, remove and replace the rejected Work and SUBCONTRACTOR shall promptly reimburse CH2M HILL for the costs of such removal and replacement of defective Work.

If any part of SUBCONTRACTOR's Work is dependent upon the quality and/or completeness of work performed under another Subcontract, SUBCONTRACTOR shall inspect such other work and promptly report to CH2M HILL any defects therein which render such work unsuitable for the proper execution of the Work under this Subcontract. Failure to make such inspections or to report any such defects to CH2M HILL shall constitute SUBCONTRACTOR's acceptance of such other work as suitable to receive SUBCONTRACTOR's Work under this Subcontract; provided however, that SUBCONTRACTOR shall not be responsible for defects that could not have reasonably been detected.

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**4.28 Permits, Licenses, and Fees**

SUBCONTRACTOR will obtain and pay for all applicable permits and licenses required by law that are associated with the Work.

**ARTICLE 5.0 OBLIGATIONS OF CH2M HILL**

**5.1 Changes**

The Work shall be subject to change by additions, deletions or revisions thereto by CH2M HILL. The SUBCONTRACTOR will be notified of such changes by receipt of additional and/or revised drawings, specifications, exhibits or other written notification.

The SUBCONTRACTOR shall submit to CH2M HILL within ten (10) working days after receipt of notice of a change, a detailed proposal with supporting calculations and pricing for the change together with any requested adjustments in the schedule. The pricing shall be itemized as required by CH2M HILL and shall be in sufficient detail to permit an analysis of all labor, material and equipment and shall cover all Work involved in the change, whether such Work was deleted, added or modified. Amounts related to Subcontracts shall be supported in similar detail. In addition, if the proposal includes a time extension, justification therefore shall also be furnished.

The SUBCONTRACTOR shall not perform changes in the Work until CH2M HILL has approved in writing the change and any adjustment in the schedule for performance of the Work. Upon receiving such written approval from CH2M HILL, the SUBCONTRACTOR shall diligently perform the change in strict accordance with the Subcontract.

Notwithstanding the paragraph above, the authorized procurement representative may expressly authorize the SUBCONTRACTOR in writing to perform the change prior to approval by CH2M HILL. The SUBCONTRACTOR shall not suspend performance of the Subcontract during the review and negotiation of any change, except as may be directed by CH2M HILL pursuant to the "Suspension of Work" provision.

The SUBCONTRACTOR shall not comply with verbally directed changes to the Work. If the SUBCONTRACTOR believes that any oral notice or instruction received from CH2M HILL will involve a change in the cost, time to perform or integrity of Work, the SUBCONTRACTOR shall require that the notice or instruction be given in writing by the authorized procurement representative. Any costs incurred by SUBCONTRACTOR to perform verbally directed changes shall be the SUBCONTRACTOR's responsibility, and the SUBCONTRACTOR waives any and all rights to a claim from CH2M HILL for such costs or additional time to perform the Work as a result of compliance by the SUBCONTRACTOR with such verbally directed changes.

**5.2 Technical Representative Responsibilities**

CH2M HILL has elsewhere in this Subcontract designated the Buyer's Technical Representative (BTR) or Cognizant Engineer (CE). The BTR/CE is responsible for monitoring and providing technical guidance for this Subcontract and should be contacted regarding questions or problems of a technical nature. The BTR/CE is also responsible for appropriate surveillance of the SUBCONTRACTOR while on the Hanford site. In no event, however, will an understanding or agreement, modification, change order, or any deviation from the terms of this Subcontract be effective or binding upon CH2M HILL unless formalized by proper Subcontract documents executed by the authorized procurement representative prior to completion of this Subcontract. On all matters that pertain to Subcontract terms, the SUBCONTRACTOR shall contact the authorized procurement representative specified within the Subcontract. When in the opinion of the SUBCONTRACTOR, the BTR/CE requests or directs efforts outside the existing scope of the Subcontract; the SUBCONTRACTOR shall promptly notify the authorized procurement representative in writing. No action shall be taken by the SUBCONTRACTOR until the authorized procurement representative has issued an appropriate modification to the Subcontract.

**5.3 Observation of the Work**

CH2M HILL reserves the right to inspect or otherwise evaluate the Work during the various stages to observe the progress and quality of the Work and to determine, in general, if the Work is proceeding in accordance with the intent of this Subcontract. CH2M HILL will not be required to make comprehensive or continuous inspections to check quality or quantity of the Work. Visits and observations made by CH2M HILL will not relieve SUBCONTRACTOR of its obligation to conduct comprehensive

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inspections of the Work, to furnish acceptable materials, to perform acceptable Work, and to provide adequate safety precautions in conformance with this Subcontract.

**ARTICLE 6.0 GENERAL LEGAL PROVISIONS**

**6.1 Confidential and Proprietary Information**

CH2M HILL possesses information of a confidential and proprietary nature about businesses, products, services, and processes of CH2M HILL and the Government. This information, which relates to designs, technical experience, classified information, software, processing systems, databases, financial and other data, intellectual property including trade secrets, customers and vendors, personnel records, research, development, inventions, construction plans, manufacturing, engineering, accounting, bid data, sales and marketing including Subcontract terms, and any information generated pursuant to Work performed in accordance with the Subcontract (collectively, Confidential Information), constitutes a commercial asset of considerable value to CH2M HILL and the Government. SUBCONTRACTOR shall use such Confidential Information only for the purpose of performing Work in accordance with the Subcontract and not disclose such Confidential Information to any other person (including the media for purposes of publicity), partnership, venture, firm, government, or corporation without the express written direction of CH2M HILL or the Government, as appropriate. SUBCONTRACTOR further shall make all reasonable efforts to require its employees and any others, including lower-tier Subcontractors, to maintain such Confidential Information in strictest confidence.

Confidential information shall not include the following:

- Information that is acquired by SUBCONTRACTOR from others who have no confidential commitment to CH2M HILL or the Government; or
- Information that is part of the public domain or becomes, without fault or participation of SUBCONTRACTOR, part of the public domain, by publication or otherwise; or
- Information that is in SUBCONTRACTOR's possession prior to CH2M HILL's or the Government's disclosure to it; or
- Information that is developed independently by SUBCONTRACTOR; or
- Information that is required to be publicly disclosed under operation of law, for which SUBCONTRACTOR will provide at least five (5) days notice to CH2M HILL or the Government, as appropriate, before disclosure.

All drawings, specifications, prints, financial and other data, and any other written or electronically encoded materials (collectively, 'Documentation') furnished by CH2M HILL and the Government to SUBCONTRACTOR shall remain CH2M HILL's property. In addition, all Documentation developed by SUBCONTRACTOR in the performance of Work in accordance with the Subcontract shall become CH2M HILL's property. Upon completion of Work, SUBCONTRACTOR shall either destroy or return such Documentation and any other Confidential Information reduced to tangible or electronic form, including copies thereof, to CH2M HILL unless CH2M HILL directs to otherwise.

Nothing contained in the Subcontract, or in any disclaimer made by CH2M HILL or the Government, shall be construed to grant SUBCONTRACTOR any license or other rights in or to disclosed Confidential Information or any patent, trademark, or copyright that has been or may be issued unless expressly conveyed by written agreement exclusive of the Subcontract.

In the event that Work performed by SUBCONTRACTOR in accordance with the Subcontract involves the collection or generation of data on persons or associations, SUBCONTRACTOR shall maintain strict confidentiality of records in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), provisions of the Fair Credit Reporting Act (15 U.S.C. 1681), and applicable federal and state agency regulations. Violations of these statutes may result in criminal penalties.

**6.2 Claims for Extra Work**

In any case where the SUBCONTRACTOR anticipates additional compensation will become due, the SUBCONTRACTOR will notify the authorized procurement representative, in writing, of its intention to make a claim for such compensation before it begins the extra Work on which it bases the claim. If such notification is not given and the SUBCONTRACTOR fails to keep strict account of actual costs for this extra Work, then the SUBCONTRACTOR hereby waves any claim for such additional compensation. Such notice by SUBCONTRACTOR, and the accounting of the SUBCONTRACTOR's actual costs for the extra Work, will not be construed as proving the validity of the claim. Claims for additional compensation shall be made in detail and submitted, in writing, to the authorized procurement representative within ten (10) working days of identifying this effort as extra Work for which the SUBCONTRACTOR bases its claim. The submission shall contain a detailed proposal with supporting



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calculations and pricing for the claim together with any requested adjustments in the schedule. The pricing shall be itemized as required by the authorized procurement representative and shall be in sufficient detail to permit an analysis of all labor, material and equipment costs and shall cover all work involved in the claim. If the claim is found to be valid, it will be allowed and reimbursed for as provided in this Subcontract.

**6.3 Assignment**

SUBCONTRACTOR shall not assign any of the duties or rights or any claim arising out of or related to this Subcontract, whether arising in tort, Subcontract or otherwise, without the written consent of CH2M HILL. Any unauthorized assignment is void and unenforceable. These conditions and the entire Subcontract are binding on the heirs, successors, and assigns of the SUBCONTRACTOR.

CH2M HILL may assign this Subcontract, in whole or in part to the Government or to such party as the Government may designate to perform CH2M HILL's obligations hereunder. Upon receipt by SUBCONTRACTOR of written notice that the DOE or a party so designated by the DOE or CH2M HILL has accepted an assignment of this Subcontract, CH2M HILL shall be relieved of all responsibility hereunder and SUBCONTRACTOR shall thereafter look solely to such assignee for performance of CH2M HILL's obligations.

**6.4 Termination**

- A. Termination for Convenience: CH2M HILL may terminate all or part of this Subcontract for its convenience. In such event, SUBCONTRACTOR will be entitled to compensation for Work performed up to the date of termination and reasonable termination expenses as determined within the discretion of CH2M HILL. SUBCONTRACTOR will not be entitled to compensation or profit on Work not performed. The termination process will be conducted in accordance with the Federal Acquisition Regulations (FAR) part 49 and FAR 52.249-6.
- B. Termination for Default: CH2M HILL may, by written notice, terminate the whole or any part of this Subcontract for default in the event that SUBCONTRACTOR fails to perform any of the provisions of this Subcontract, or fails to make progress as to endanger performance of this Subcontract in accordance with its terms, or, in the opinion of CH2M HILL, becomes financially or legally incapable of completing the Work and does not correct such to CH2M HILL's reasonable satisfaction within a period of 7 calendar days after receipt of notice from CH2M HILL specifying such failure. If, after notice of termination, it is determined for any reason that SUBCONTRACTOR was not in default or that the default was excusable, the rights and obligations of the parties will be the same as if the notice of termination had been issued pursuant to "termination for convenience." In the event of termination for default, the SUBCONTRACTOR will not be entitled to termination expenses.
- C. Regardless of the cause of termination, the SUBCONTRACTOR shall deliver to CH2M HILL legible copies of all completed or partially completed Work products and instruments of service and all materials and equipment previously paid for by CH2M HILL.
- D. In no case shall termination for any cause constitute a claim for consequential damages or damages based on loss of anticipated profits.
- E. The rights and remedies of CH2M HILL provided in this Article are not exclusive and are in addition to any other rights and remedies provided by law or equity under this Subcontract.

**6.5 Governing Law**

Irrespective of the place of performance, this Subcontract will be construed and interpreted according to Federal Government Contract Law as enunciated and applied by Federal judicial bodies, Boards of Contract Appeals and quasi-judicial agencies of the Federal Government. To the extent that this Law is not dispositive, the law of the State of Washington shall apply. In the event that either party hereto must resort to litigation to enforce a right or remedy conferred by law, equity or the provisions of this Subcontract, the parties hereby consent to the action being brought in the court of competent jurisdiction in the State of Washington.

**6.6 Severability and Survival**

If any of the provisions contained in this Subcontract are held invalid, illegal, or unenforceable, the enforceability of the other remaining provisions shall not be affected or impaired thereby. Limitations of liability, indemnities, and other express representations shall survive termination of this Subcontract for any cause.

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**6.7 Authorization to Proceed**

Execution of this Subcontract by CH2M HILL will be authorization for the SUBCONTRACTOR to proceed with the Work unless otherwise indicated in this Subcontract.

**6.8 No Third-Party Beneficiaries**

This Subcontract conveys no rights or benefits to anyone other than SUBCONTRACTOR and CH2M HILL, and has no third-party beneficiaries.

**6.9 Arbitration**

In the event that CH2M HILL is required to arbitrate a dispute with a third party, which dispute arises out of or is directly related to this Subcontract, the SUBCONTRACTOR agrees to join in such arbitration proceeding as CH2M HILL may direct and shall submit to such jurisdiction and be finally bound by the judgment rendered in accordance with the arbitration rules as may be established therein.

**6.10 Disputes**

In the event that the parties cannot, through negotiations, reach agreement on any issue arising out of the Subcontract, the issue will be considered a dispute and shall be resolved in accordance with the following:

If efforts at resolution through good faith discussions and/or negotiations fail to resolve the dispute, the parties agree that before taking any other action, they will consider the use of Alternate Dispute Resolution (ADR). In the event that non-binding mediation or arbitration is agreed upon, the site of the proceedings shall be Richland, Washington, unless otherwise agreed in writing by the parties. The rules for mediation or arbitration and the selection of the arbitrator shall be determined by mutual agreement of the parties. The mediator or arbitrator shall allocate cost, except that there shall be no pre-decisional interest costs, and each party shall bear its discretionary costs.

In the event ADR fails or is not used, primary jurisdiction for the resolution of any claim arising under this Subcontract shall reside in the United States Federal District Court for the Eastern District of Washington. If the requirements for jurisdiction in the United States District Court are not met, the litigation shall be brought in a Court of competent jurisdiction in Benton County, Washington. Unless otherwise directed in writing by CH2M HILL, the SUBCONTRACTOR shall proceed diligently with the performance of the Subcontract pending final resolution of the dispute.

**6.11 Waiver**

CH2M HILL's failure to insist on performance of any term, condition, or instruction, or to exercise any right or privilege included in this Subcontract, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, and/or any right or privilege. No asserted waiver of any right or benefit by CH2M HILL shall be valid unless such waiver is in writing, signed by CH2M HILL, supported by consideration and specifies the extent and nature of the rights or benefits being waived.

**6.12 Gratuities**

The SUBCONTRACTOR, its employees, agents or representatives shall not offer or give to an officer, official or employee of CH2M HILL or the Government, gifts, entertainment, payments, loans or other gratuities to influence the award of a Subcontract or obtain favorable treatment under a Subcontract.

Violation of this provision may be deemed by CH2M HILL to be a material breach of this Subcontract and any other Subcontract with CH2M HILL and subject all Subcontracts with the SUBCONTRACTOR to termination for default, as well as any other remedies by law or in equity.

**6.13 Interpretation**

Heading and titles of provisions, clauses, sections, paragraphs or other subparts of this Subcontract are for convenience of reference only and shall not be considered in interpreting the text of this Subcontract. No provision in this Subcontract is to be interpreted for or against any party because that party or its counsel drafted such provision.

**ARTICLE 7.0 SUPPLEMENTAL TERMS AND CONDITIONS**

**General Intent.** This Agreement is subject to the terms and conditions of CH2M HILL's Prime Contract Number DE-AC27-99RL14047. The general intent of these provisions is to incorporate into the Subcontract all required Federal Acquisition Regulation (FAR) and Department of Energy Acquisition Regulation (DEAR) flow down contract clauses, and any other State or

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Federally-mandated contract clauses, which are required to be so incorporated either by the FAR, DEAR, CH2M HILL's Prime Contract or applicable State or Federal law.

To reference the cited FAR and DEAR flowdown clauses, the following web addresses are provided:

<http://farsite.hill.af.mil/>

<http://farsite.hill.af.mil/vfdoea.htm>

**Substitution of the Parties.** Wherever required to make any FAR, DEAR, or Prime Contract clause incorporated herein meaningful, the term "Contractor" shall be read "Subcontractor," and the term "Government" or "Contracting Officer" shall be read "CH2M HILL" with the exception of DEAR 952.250-70 Nuclear Hazards Indemnity Agreement (June 1996).

**Specific Incorporated Clauses.** Without in any way limiting the FAR, DEAR, or Prime Contract clauses to be incorporated herein, the following FAR and DEAR Contract Clauses are hereby specifically incorporated herein by reference with the same force and effect as if they were given in full text.

**7.1 Federal Acquisition Regulation (48 CFR Chapter 1) Clauses and Department of Energy Acquisition Regulation (48 CFR Chapter 9) Clauses**

**Applicable to all orders**

- |                     |   |
|---------------------|---|
| 1. FAR 52.202-1     | Definitions (Jul 2004) (As Supplemented by DEAR 952.202-1)  |
| 2. FAR 52.211-5     | Material Requirements (Aug 2000)*   |
| 3. FAR 52.224-1     | Privacy Act Notification (Apr 1984)*  |
| 4. FAR 52.224-2     | Privacy Act (Apr 1984)*   |
| 5. FAR 52.227-14    | Rights in Data – General (Modified per DEAR 927.409(a)) (Jun 1987) (Alternate 1-Jul 1995)*  |
| 6. FAR 52.227-16    | Additional Data Requirements (Jun 1987)*  |
| 7. FAR 52.242-1     | Notice of Intent to Disallow Costs (Apr 1984)*  |
| 8. FAR 52.244-6     | Subcontracts for Commercial Items and Commercial Components (Dec 2004)*   |
| 9. DEAR 952.204-2   | Security (May 2002)*  |
| 10. DEAR 952.204-70 | Classification/Declassification (Sep 1997)*   |
| 11. DEAR 952.204-71 | Sensitive Foreign Nations Controls (Apr 1994)*  |
| 12. DEAR 952.208-70 | Printing (Apr 1984)*  |
| 13. DEAR 952.227-9  | Refund of Royalties (Feb 1995)*   |
| 14. DEAR 952.227-11 | Patent Rights – Retention by the SUBCONTRACTOR (Short Form) (Feb 1995)* (Applies to subcontracts for experimental, research, developmental, or demonstration work when the subcontractor is a domestic small business or nonprofit organization as defined at FAR 27.301) |
| 15. DEAR 952.227-13 | Patent Rights – Acquisition by the Government (Sept 1997)* (Applies to Subcontracts for experimental, research, developmental, or demonstration work when the Subcontractor is a domestic large business)   |
| 16. DEAR 952.250-70 | Nuclear Hazards Indemnity Agreement (Jun 1996)*   |
| 17. DEAR 970.5204-1 | Counterintelligence (Dec 2000)*   |
| 18. DEAR 970.5204-3 | Access to and Ownership of Records (Jul 2005)*  |
| 19. DEAR 970.5208-1 | Printing (Dec 2000)*  |
| 20. DEAR 970.5215-4 | Cost Reduction (Dec 2000)*  |
| 21. DEAR 970.5227-1 | Rights in Data-Facilities (Dec 2000)*   |
| 22. DEAR 970.5227-8 | Refund of Royalties (Aug 2002)*   |

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- 23. DEAR 970.5229-1 State and Local Taxes (Dec 2000)\*
- 24. DEAR 970.5232-3 Accounts, Records, and Inspection (Dec 2000)\*

**Applicable to all orders over \$2,500**

- 25. FAR 52.222-3 Convict Labor (Jun 2003)\*
- 26. FAR 52.225-1 Buy American Act—Supplies (Jun 2003) (Applies to orders for materials when the value is over \$2,500 but not over \$25,000, but the clause does apply if the amount is over \$25,000 if neither FAR 52.225-3 nor FAR 52.225-5 apply.)\*
- 27. FAR 52.225-13 Restrictions on Certain Foreign Purchases (Feb 2006)\*

**Applicable to all orders over \$10,000**

- 28. FAR 52.222-20 Walsh-Healey Public Contracts Act (Dec 1996)\*
- 29. FAR 52.222-21 Prohibition of Segregated Facilities (Feb 1999)\*
- 30. FAR 52.222-26 Equal Opportunity (Apr 2002)\*
- 31. FAR 52.222-35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (Dec 2001)\*
- 32. FAR 52.222-36 Affirmative Action for Workers with Disabilities (Jun 1998) \*
- 33. FAR 52.222-37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (Dec 2001)\*

**Applicable to all orders over \$25,000**

- 34. FAR 52.209-6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Jan 2005)\*
- 35. FAR 52.225-3 Buy American Act – Free Trade Agreements – Israeli Trade Act (Jan 2005) (*Applies if acquisition value is \$25,000 or more but less than \$175,000. If the value is \$25,000 or more but less than \$50,000, Alternate I applies. If acquisition value is \$50,000 or more but less than \$58,550, Alternate II applies*)\*

**Applicable to all orders over \$100,000**

- 36. FAR 52.203-5 Covenant Against Contingent Fees (Apr 1984)\*
- 37. FAR 52.203-6 Restrictions on Subcontractor Sales to the Government (Jul 1995)\*
- 38. FAR 52.203-7 Anti-Kickback Procedures (Jul 1995)\*
- 39. FAR 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997)\*
- 40. FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Sep 2005)\*
- 41. FAR 52.215-2 Audit and Records-Negotiation (Jun 1999)\*
- 42. FAR 52.222-4 Contract Work Hours and Safety Standards Act-Overtime Compensation (Jul 2005)\*
- 43. FAR 52.222-39 Notification of Employee Rights Concerning Payment Of Union Dues or Fees (Dec 2004)\*
- 44. FAR 52.223-14 Toxic Chemical Release Reporting (Aug 2003)\*
- 45. FAR 52.227-1 Authorization and Consent (Jul 1995)\*
- 46. FAR 52.227-2 Notice and Assistance Concerning Patent and Copyright Infringements (Aug 1996) \*
- 47. FAR 52.242-13 Bankruptcy (Jul 1995)\*
- 48. DEAR 970-5227-4 Authorization and Consent (Aug 2002)\*
- 49. DEAR 970.5227-5 Notice and Assistance Regarding Patent and Copyright Infringement (Aug 2000)\*

**Applicable to all orders over \$175,000:**

- 50. FAR 52.225-5 Trade Agreements (Jan 2005)\*

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**Applicable to all orders over \$500,000**

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|---------------------|---|
| 51. FAR 52.230-2    | Cost Accounting Standards (Apr 1998)* - Small Business Exempted   |
| 52. FAR 52.230-3    | Disclosure and Consistency of Cost Accounting Practices (Apr 1998)* - Small Business Exempted                         |
| 53. FAR 52.230-6    | Administration of Cost Accounting Standards (Apr 2005)* - Small Business Exempted                                     |
| 54. DEAR 952.226-74 | Displaced Employee Hiring Preference (Jun 1997)*  |
| 55. DEAR 970.5226-2 | Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Dec 2000)* |

**Applicable to all orders over \$550,000**

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|------------------|--|
| 56. FAR 52.219-9 | Small Business Subcontracting Plan (Jul 2005) Alternate II (Oct 2001)* - Small Business Exempted |
|------------------|--|

**Applicable to all orders over \$650,000**

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|-------------------|--|
| 57. FAR 52.215-10 | Price Reduction for Defective Cost or Pricing Data (Oct 1997)*                                     |
| 58. FAR 52.215-11 | Price Reduction for Defective Cost or Pricing Data-Modification (Oct 1997)*                        |
| 59. FAR 52.215-12 | Subcontractor Cost or Pricing Data (Oct 1997)*   |
| 60. FAR 52.215-13 | Subcontractor Cost or Pricing Data-Modifications (Oct 1997)*                                       |
| 61. FAR 52.215-15 | Pension Adjustments and Asset Reversions (Oct 2004)*   |
| 62. FAR 52.215-18 | Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (Jul 2005)* |
| 63. FAR 52.215-19 | Notification of Ownership Changes (Oct 1997)*  |